REMARKS

The allowance of claims 5-9 and 12-16 is noted with appreciation.

Rejected claims 1, 2 have been cancelled without prejudice or estoppel, and the subject matter thereof has been incorporated into new independent claim 17 that is presented herewith.

Claims 3, 4, 10 and 11 have been rejected under 35 USC §103(a) as being unpatentable over Fogarty et al. '452 in view of Laird '661 and Merry et al. '235. This rejection is respectfully traversed.

Claim 11 and new claim 17, and the remaining claims 3, 4, 10 which have been variously amended merely to recite more specifically the inherent aspects of the defined structures, now specifically recite "a fluid passage in a wall of the body in communication with the balloon and extending along the wall toward the proximal end of the body for connection near the proximal end to a source of fluid under pressure to selectively inflate the balloon", and "the fluid seal includes a generally toroidally-shaped member removably attached in fluid-sealing engagement with the proximal end of the body", and "disabling a fluid-tight seal within the access port to permit deflating the anatomical space inflated with fluid under pressure upon removal of an endoscopic instrument from within the access port".

In addition, these claims specifically recite "a plurality of resilient fluid seals, each selectively attachable to the proximal end of the body for forming a fluid-tight seal with the body near the proximal end thereof, each of the fluid seals including a resilient aperture therethrough of selected different dimensions disposed to axially align with the central bore in the body in position attached to the proximal end of the body", and "an auxiliary resilient fluid seal for insertion within the resilient aperture of the resilient fluid seal to form a fluid-tight seal therewith, including an aperture therein of smaller dimension than the resilient aperture of the resilient gas seal for forming a sliding, substantially fluid-tight seal about a cylindrical member".

These aspects of the claimed invention provide more versatile operation of the access port with endoscopic instruments of varying diameters. These aspects of the claimed invention also greatly facilitate re-configuring the fluid-pressure seals to accommodate different-diameter instruments during a surgical procedure, without having to remove the access port from the incision, and without having to retain a fluid-pressure seal in the anatomical space formed within dissected tissue.

These aspects of the claimed invention are not shown or suggested by the references considered in the combination as proposed by the Examiner, or in any combination. Specifically, although Fogarty '452 may be

considered to disclose an outer, expansive sealing member (e.g., with reference to Figures 13, 14), there is no disclosure or suggestion in any of these references of a structure or of seals as claimed by applicants. More specifically, there is no disclosure of a passage extending along the body for controlling pressurization of an incision-sealing balloon near the distal end of the body from a fluid port near the proximal end of the body. Nor is there any disclosure or hint of suggestion in the cited references of assembling inner seals about the proximal end of the body in the manner as claimed by applicants. And, the kit of components as claimed by applicants, including replaceable or detachable sliding seals with different inner apertures and different various assemblages of seals including one seal within the aperture of another seal, finds no counterpart disclosure or suggestion in the cited references. Further, there is no disclosure in the cited references of a seal fitted within a seal in a manner as claimed by applicants. At best, Merry et al. '235 discloses tandem seals, but such seals are configured not to touch (Col. 2, lines 22-29). Finally, there is no disclosure in the cited references regarding relieving fluid pressure in an anatomical space with an endoscopic instrument removed from the access port, in the manner as claimed by applicants.

Thus, the cited references considered alone or in the combination proposed by the examiner are deficient of disclosure from which to form even a *prima facie* basis for making a proper determination of obviousness. It is therefore respectfully submitted that the claims 3, 4, 10, 11 and 17 are patentably distinguishable over the cited art (including the published Hahnen application '332, cited but not applied).

Favorable consideration is solicited.

In the event the Examiner elects to continue the rejection of claims, he is respectfully requested to enter this amendment in order to clarify the issue for appeal.

Respectfully submitted,
PETER CALLAS, et al.

Dated: 9/8/03

By: A. C. Smith

Albert C. Smith, Reg. No. 20,355
Fenwick & West LLP
801 California Street
Mountain View, CA 94041
Telephone (650) 335-7296
Fax (650) 938-5200